

Remarks

Upon entry of the foregoing amendments claims 2-14 and 77-79 are pending in the application, with claims 2-3, 77, and 79 being the independent claims. Claims 1, 15-76 and 80-107 are cancelled. Claims 2-14 and 77-79 are currently amended. Support for the claim amendments can be found in the original claims and throughout the specification. Thus, no new matter is added by way of these amendments, and their entry is respectfully requested.

Claim Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 2-14 and 77-79 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

The Action states that claims 2-14 and 77 and 79 are rejected because “it cannot be determined whether the ‘said isolated *E. coli*’ in line 2 of claim 2 is referring to the isolated *E. coli* of line 1 or *E. coli* MM294.” These claims have been amended to recite “said **isolated** *E. coli*” so as to be clear as to which *E. coli* they are referring (i.e., the isolated *E. coli* and not *E. coli* MM294).

The Action states that claim 78 is rejected because it is “unclear how to define ‘derivatives.’” Applicants note that “derivative” is defined at page 11, paragraph [0078] in the instant application. However, simply to expedite allowance, claim 78 has been amended to instead recite “or **progenies** thereof.”

Thus, Applicants respectfully request that the rejections of claims 2-14 and 77-79 under 35 U.S.C § 112, second paragraph, be withdrawn.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 2-14 and 77 and 79 are rejected under 35 U.S.C. § 102(b) as being anticipated by Bloom *et al.* Applicants respectfully disagree.

An anticipation rejection under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a single reference, practice or device. See *Kalman v. Kimberly Clark Corp.*, 713 F.2d 760, 771 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984). See also M.P.E.P. 8th ed., § 2131 (rev. 2, May 2004) ("To anticipate a claim, the reference must teach every element of the claim.").

The present claims are drawn to isolated *E. coli* or compositions comprising *E. coli* having a growth rate that is at least 5% greater than the growth rate of *E. coli* MM294, wherein the isolated *E. coli* or the *E. coli* of the compositions are resistant to infection by bacteriophage Wphi or Mu.

While it is true that Bloom discloses isolated *E. coli* strain W which has a rapid growth rate that lacks endogenous plasmids, Bloom does not teach an isolated *E. coli* or compositions comprising *E. coli* that are specifically resistant to infection by bacteriophage Wphi or Mu. As described in the present specification, *E. coli* strain W is normally susceptible to Wphi or Mu bacteriophage infection. See, for example, Examples 21 and 23.

It is, in fact, the novel derivatives of *E. coli* strain W, as disclosed in the present application, that are resistant to infection by bacteriophage Wphi or Mu and not the *E. coli* strain W in and of itself. Therefore, contrary to the assertions made in the Action, *E. coli* strain W, as disclosed in Bloom does inherently contain detectable levels of the genetic material from Mphi and Mu bacteriophages and is therefore not resistant to infection by these bacteriophages. This is directly opposite to what is presently claimed.

Thus, Bloom does not anticipate present claims 2-14 and 77 and 79 and Applicants respectfully request that the rejection of these claims under 35 U.S.C § 102 be withdrawn.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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